

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

**TIMOTHY MORGAN, individually and on behalf  
of all others similarly situated,**

**Plaintiff,**

**vs.**

**NETWORK ENGINES, INC., JOHN CURTIS,  
DOUGLAS G. BRYANT, and LAWRENCE A.  
GENOVESI,**

**Defendants.**

X

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X

1:03cv 12529 (JLT)

**EDWIN POWELL MILLER, individually and on  
behalf of all others similarly situated,**

**Plaintiff,**

**vs.**

**NETWORK ENGINES, INC., JOHN CURTIS,  
DOUGLAS G. BRYANT and LAWRENCE A.  
GENOVESI,**

**Defendants.**

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1:04cv 10022 (JLT)

(Additional Captions Set Forth Below)

**MOTION OF WING KAM YU, BLAKE KUNKEL AND THOMAS CUNNINGHAM FOR  
CONSOLIDATION, APPOINTMENT AS LEAD PLAINTIFF, AND FOR  
APPROVAL OF LEAD PLAINTIFF'S CHOICE OF LEAD AND LIAISON COUNSEL**

<b>DAVID DUBROW, individually and on behalf of all others similarly situated,</b>	<b>X</b>	
<b>Plaintiff,</b>	:	
<b>vs.</b>	:	<b>1:04cv 10096 (JLT)</b>
<b>NETWORK ENGINES, INC.,</b>	:	
<b>Defendants.</b>	:	
	<b>X</b>	
<b>WING KAM YU, individually and on behalf of all others similarly situated,</b>	:	
<b>Plaintiff,</b>	:	<b>1:04cv 10238 (DPW)</b>
<b>vs.</b>	:	
<b>NETWORK ENGINES, INC., JOHN CURTIS, and DOUGLAS G. BRYANT,</b>	:	
<b>Defendants.</b>	:	
	<b>X</b>	
<b>HERBERT A. REITZEL on behalf of himself and others similarly situated,</b>	:	<b>1:04cv 10288 (JLT)</b>
<b>Plaintiff,</b>	:	
<b>vs.</b>	:	
<b>NETWORK ENGINES, INC., JOHN CURTIS, DOUGLAS G. BRYANT and LAWRENCE A. GENOVESI,</b>	:	
<b>Defendants.</b>	:	
	<b>X</b>	

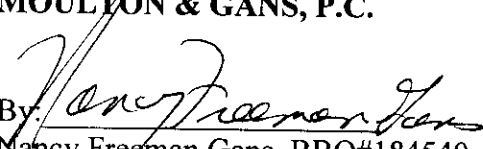
Class members Wing Kam Yu, Blake Kunkel and Thomas Cunningham, by their counsel, hereby move this Court for an Order: (i) consolidating for all purposes the above-captioned related actions; (ii) Wing Kam Yu, Blake Kunkel and Thomas Cunningham as Lead Plaintiff;

(iii) approving their selection of the law firm of Milberg Weiss Bershad Hynes & Lerach LLP to serve as Lead Counsel and Moulton & Gans PC to serve as Liaison Counsel; and (iv) granting such other and further relief as the Court may deem just and proper. In support of this Motion, Movants submit herewith a Memorandum of Law, [Proposed] Order and the Declaration of Nancy Gans dated February 17, 2004.

DATED: February 17, 2004

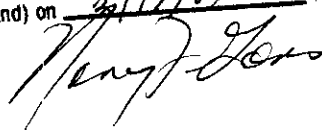
Respectfully submitted,

**MOULTON & GANS, P.C.**

By:   
Nancy Freeman Gans BBO#184540  
33 Broad Street, Suite 1100  
Boston, MA 02109  
Telephone: (617) 369-7979

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the above document was served upon the attorney of record for each party by mail (by hand) on 2/17/04.



**Proposed Liaison Counsel**

**MILBERG WEISS BERSHAD  
HYNES & LERACH LLP**

Steven G. Schulman  
Anita B. Kartalopoulos  
Andrei V. Rado  
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(212) 594-5300

**Proposed Lead Counsel**

**LAW OFFICES OF  
CHARLES J. PIVEN, P.A.**

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**Attorney for Plaintiff**

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

<b>TIMOTHY MORGAN, individually and on behalf of all others similarly situated,</b>	<b>X</b>
	:
<b>Plaintiff,</b>	:
	:
<b>vs.</b>	:
	:
<b>NETWORK ENGINES, INC., JOHN CURTIS DOUGLAS G. BRYANT, and LAWRENCE A. GENOVESI,</b>	:
	:
<b>Defendants.</b>	:
	<b>X</b>
<b>EDWIN POWELL MILLER, individually and on behalf of all others similarly situated,</b>	:
	:
<b>Plaintiff,</b>	:
	:
<b>vs.</b>	:
	:
<b>NETWORK ENGINES, INC., JOHN CURTIS, DOUGLAS G. BRYANT and LAWRENCE A. GENOVESI,</b>	:
	:
<b>Defendants.</b>	:
	<b>X</b>

(Additional Captions Set Forth Below)

**[PROPOSED] ORDER CONSOLIDATING THE ACTIONS, APPOINTING  
WING KAM YU, BLAKE KUNKEL AND THOMAS CUNNINGHAM AS LEAD  
PLAINTIFF PURSUANT TO §21D(A)(3)(B) OF THE SECURITIES EXCHANGE ACT  
OF 1934 AND APPROVING ITS SELECTION OF LEAD AND LIAISON COUNSEL**

<b>DAVID DUBROW, individually and on behalf of all others similarly situated,</b>	<b>X</b>	
<b>Plaintiff,</b>	:	<b>1:04cv 10096 (JLT)</b>
<b>vs.</b>	:	
<b>NETWORK ENGINES, INC., ,</b>	:	
<b>Defendants.</b>	:	
<b>WING KAM YU, individually and on behalf of all others similarly situated,</b>	<b>X</b>	<b>1:04cv 10238 (DPW)</b>
<b>Plaintiff,</b>	:	
<b>vs.</b>	:	
<b>NETWORK ENGINES, INC., JOHN CURTIS, and DOUGLAS G. BRYANT,</b>	:	
<b>Defendants.</b>	:	
<b>HERBERT A. REITZEL on behalf of himself and others similarly situated,</b>	<b>X</b>	<b>1:04cv 10288 (JLT)</b>
<b>Plaintiff,</b>	:	
<b>vs.</b>	:	
<b>NETWORK ENGINES, INC., JOHN CURTIS, DOUGLAS G. BRYANT and LAWRENCE A. GENOVESI,</b>	:	
<b>Defendants.</b>	:	
	<b>X</b>	

Having considered the Motion to Appoint Wing Kam Yu, Blake Kunkel and Thomas Cunningham, as Lead Plaintiff pursuant to §21D(a)(3)(B) of the Securities Exchange Act of 1934 (the "Exchange Act") and to Approve Lead Plaintiff's Choice of Counsel (the "Motion") and good cause appearing therefore, the Court orders as follows:

1. The Motion is GRANTED;
2. The Court, having considered the provision of Fed. R. Civ. P. 42(a) hereby determines that the above captioned actions should be consolidated;
3. Wing Kam Yu, Blake Kunkel and Thomas Cunningham are the “most adequate plaintiff” and accordingly, are appointed Lead Plaintiff pursuant to §21D(a)(3)(B) of the Securities Exchange Act of 1934, 15 U.S.C. §78u-4(a)(3)(B); and
4. Lead Plaintiff’s selection of Milberg Weiss Bershad Hynes & Lerach LLP to serve as Lead Counsel, and Moulton & Gans PC to serve as Liaison Counsel is granted pursuant to pursuant to §21D(a)(3)(B)(v) of the Exchange Act.

IT IS SO ORDERED,

DATED:

\_\_\_\_\_  
United States District Court Judge

Dated: Boston, Massachusetts  
\_\_\_\_\_, 2004